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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,698	08/05/2003	Donald E. Marigliano	G08.028/U	7559
28062 7590 02/11/2009 BUCKLEY, MASCHOFF & TALWALKAR LLC 50 LOCUST AVENUE NEW CANAAN, CT 06840				
EXAMINER LEMBEUX, JESSICA				
ART UNIT 3693		PAPER NUMBER		
MAIL DATE 02/11/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DONALD E. MARIGLIANO

Application No. 10/634,698
Technology Center 3600

Mailed: 11 February 2009

Before LAWRENCE J. BANKS *Paralegal Specialist*
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on 16 December 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed 12 August 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1-2, 4-7, 10, 13-21 and 24-37 are rejected under § 102(b) and claims 8-9, 11-12 and 22-23 are rejected under § 103(a); whereas Appellant(s) have either not indicated the grounds of rejection of these claims or has improperly listed these claims as 1, 10, 15, 24, 29 and 34 rejected under § 102(b) and claim 8 rejected under § 103(a). Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

Application No. 10/634,698

- 1) hold the Appeal Brief filed on 12 August 2008 defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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